

An informational item from Alameda County's
Community Development Agency Planning Department



Trees on Private Property

Regulatory options for protection and
management of private trees in
unincorporated Alameda County

Sunol CAC
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BACKGROUND

Existing tree protections and regulations in unincorporated Alameda County

Alameda County Code of Ordinances, Chapter 12.11 **REGULATION OF TREES IN COUNTY RIGHT-OF-WAY**

[Ordinance No. O-2016-66](#)

- **Permit required to remove, prune, or plant** any tree located along streets within the County right-of-way
- **Property owners are responsible** for maintaining ROW trees on or adjacent to their properties
- Managed by **Public Works Agency**
- Does not apply to trees on private property
- <https://www.acpwa.org/programs-services/transportation/tree.page>



Alameda County Code of Ordinances, Chapter 6.66 **VIEWS AND SUNLIGHT—FAIRVIEW DISTRICT**

(Ordinance No. O-2012-7)

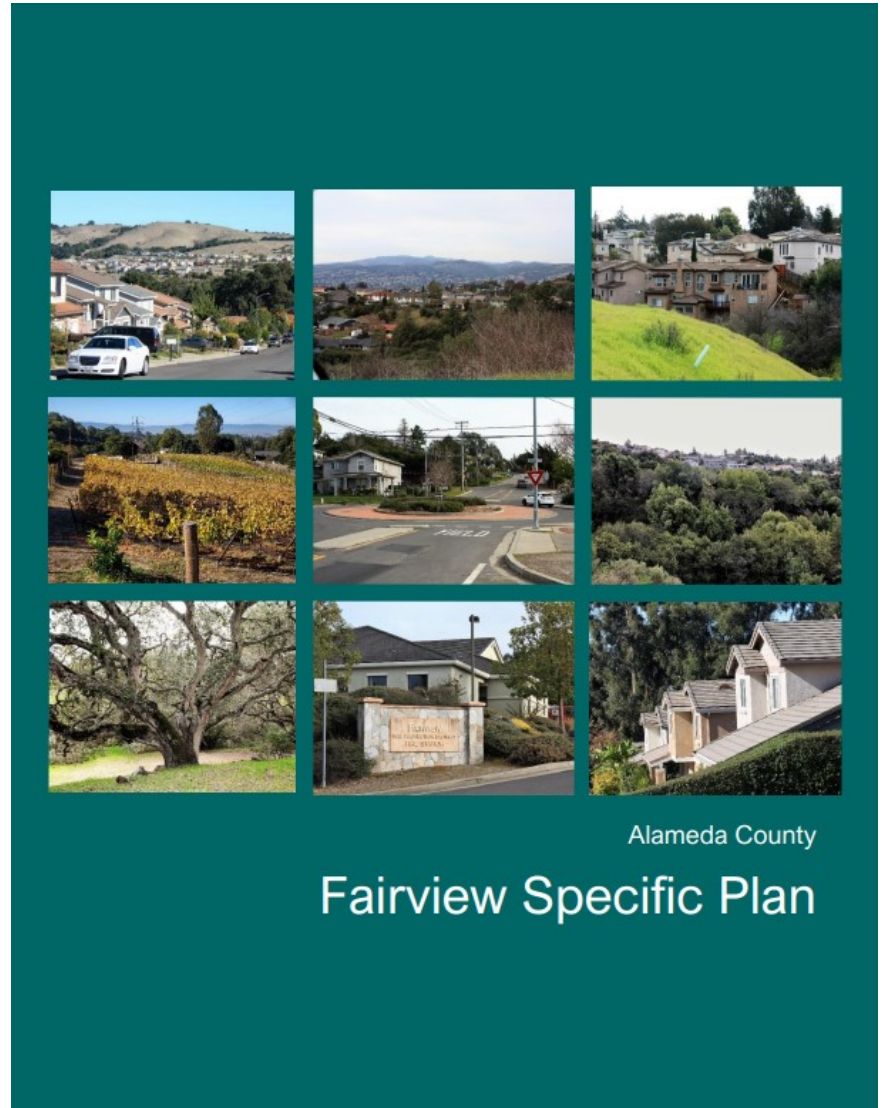
- Applies to **Fairview District only**
- **Protects rights of property owners** to views or sunlight (from time of purchase) against unreasonable obstruction by the growth of trees
- Establishes a process for property owners to **restore views or sunlight obstructed by growth of trees**
- https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT6HESA_CH6.66VISUAIDI



Fairview Area Specific Plan, Section 6.4.4 Development-Related Tree Preservation

- Preserves large, mature, trees when a site is developed (20" DBH* for native trees and 30" DBH for introduced tree species)
- If preserving trees is infeasible, undesirable, or unsafe, **requires 1:1 replacement** with a focus on native species
- **Factors in potential fire hazards and infrastructure compatibility** when choosing replacement species
- Tree preservation/replacement may be **included in Conditions of Approval** for a development project
- <https://www.acgov.org/cda/planning/generalplans/documents/FairviewSpecificPlan-Adopted060321.pdf>

*DBH = Diameter at Breast Height, or 4.5'



There are currently no Countywide protections or other ordinances regulating trees on private property in unincorporated Alameda County

Relevant General Plan Policies

Fairview Area Specific Plan (6.4.4.h), Castro Valley General Plan (Action 7.3-2), Eden Area General Plan (Goal GH-3.P4), and East County Area Plan (Program 52) call for consideration of private property tree protection ordinances and/or tree planting/tree replacement requirements.

Community Climate Action Plan* draft Action AG-2.1.6 reads *“Explore **strategies to increase tree protections on private property** that consider both the benefits of a healthy urban tree canopy and concerns about preserving private property rights. Strategies may include private property tree protection ordinances, Heritage, Protected, or Native tree designations, or tree stewardship incentives.”*

Environmental Justice Element* draft Action EJ2.1B reads *“The Community Development Agency will **explore strategies to increase tree protections on private property** that consider both the benefits of a healthy urban tree canopy and concerns about preserving private property rights and will report its findings to the Municipal Advisory Councils, the Agricultural Advisory committee, the Planning Commission, and the Board Unincorporated Services Committee. Strategies may include private property tree protection ordinances, Heritage, Protected, or Native tree designations, or tree stewardship incentives.”*

Safety Element* draft Action A10 (Goal 7) reads *“Adopt a **Hazardous Tree Ordinance** to address trees that are a risk to life or property.”*

*adoption anticipated Summer 2024

ORDINANCES AND BEYOND

Options for protecting and managing
trees on private property

Typical Components of a Tree Protection Ordinance

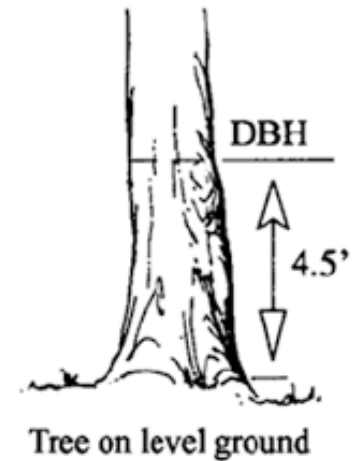
- Clearly **defines which trees are protected** and the nature of the protections
- **Establishes permit requirements** and/or development review requirement for removal of protected trees
- **Sets criteria for tree permit application review** and/or review of development-related tree removal requests, including appeals processes
- **Establishes exceptions for emergency situations** where protected trees pose immediate threat
- **Establishes reporting and enforcement mechanisms** (i.e. fines) for ordinance violations
- **Designates agency** responsible for enforcement



Tree Protection Ordinance Types

Tree protection ordinances vary widely, and can reflect the values and priorities of the local community

- **Size-based protection.** All trees on private property over a certain size
 - *For example, all trees over 12" diameter at breast height (DBH)*
- **Species-based protection.** All trees of a certain size of one or more key species; frequently used to protect native trees.
 - *For example, all Coast Live Oaks and California Bay Laurels over 10" DBH*
- **Heritage tree protection.** Trees with landscape/ecological/historic value
 - *For example, all London Planetrees over 20" DBH*
- **Location-based protection.** Trees in specific locations or zoning districts
 - *For example, all trees over 20" DBH within the required front yard long of properties along the 100 block of Main Street, or within the R1 District*
- **Conditions-based protection.** Trees planted or retained as a condition for a development project, or trees planted to replace an unlawfully-removed tree



Examples of Tree Protection Ordinances

Contra Costa County

Tree Protection and Preservation Ordinance:

- “Protected Trees” on private property include specific native trees 6.5”+ DBH that are part of a defined habitat (e.g. riparian, oak woodland, or part of a stand of 4 or more trees); trees required to be retained as a condition of approval; trees required to be planted as replacement for unlawful removal; “Heritage Trees” (discussed in a coming slide)
- Additional tree preservation regulations apply to commercial properties, undeveloped properties, properties designated for recreational or open space purposes, properties designated as visually significant riparian or ridge line vegetation.
- Responsible agency: Community Development Department

https://library.municode.com/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT8ZO_DIV8_16TR_CH816-6TRPRPR

Examples of Tree Protection Ordinances

Santa Clara County

Tree Preservation and Removal Ordinance:

- “Protected Trees” on private property include any tree 12” or 6” DBH in specific zoning districts; trees required to be retained as a condition of approval; trees required to be planted as replacement for unlawful removal; “Heritage Trees” (discussed in a coming slide)
- This combination ordinance also regulates ROW trees
- Responsible agency: Planning Department for private property; Department of Roads and Airports for public trees

<https://plandev.sccgov.org/how/build-or-improve-property/tree-preservation-and-removal#3925188384-2382773236>

Examples of Tree Protection Ordinances

City of Oakland

Protected Trees Ordinance:

- “Protected Trees” on private property include Coast Live Oaks over 4” DBH and any other tree over 9” DBH except for Eucalyptus and Monterey Pine
- Specifies different procedures and criteria for development-related tree removal vs. non-development-related tree removal
- Criteria for approving tree removal consider hazards to public safety, unconstitutional taking of property, view preservation, and pursuit of an approved landscape plan.
- This combination ordinance also covers “City-owned” ROW trees
- Responsible agency: Office of Parks and Recreation.

https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT12STSIPU_PL_CH12.36PRTR

Landmark/Heritage Tree Registry

A mechanism to designate and protect trees that have special ecological, historic, or landscape value

Contra Costa County Heritage Tree Ordinance: Defines a “Heritage Tree” as any tree 72”+ in circumference at 4.5’ height or any tree designated by the Board of Supervisors because of ecological significance, habitat interdependence, or status as an “outstanding specimen.” Planning Commission receives nominations and forwards recommendations to BOS. Zoning Administrator authorized to issue permits for removal under limited circumstances.

https://library.municode.com/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT8ZO_DIV816TR_CH816-4HETRPRHTDI

City of San Francisco Landmark Trees: “Landmark Trees” may be designated by the Board of Supervisors as “extra special” because of rareness of species, size or age, extraordinary structure, ecological contribution, or historical/cultural significance. Urban Forestry Council receives nominations and forwards recommendations to BOS. Approval from Department of Public Works required for removal under limited circumstances. <https://www.sfenvironment.org/policy/landmark-tree-code-public-works-code-article-16-section-810>

Santa Clara County Heritage Trees: “Heritage Trees” are those found to have special significance to the community because of unique history, girth, height, species, or other unique quality. County Historical Heritage Commission receives nominations and forwards recommendations to BOS.

https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCODELAUS_DIVC16TRPRRE_SC16-12HETR

Landscape Ordinance

A mechanism to require trees as part of a development project.

City of Fremont

- Fremont Municipal Code (18.183.110) establishes tree planting requirements for private, public, and commercial parking lots: one large canopy tree for every 10 parking stalls, evenly distributed throughout the interior of the lot.
<https://www.codepublishing.com/CA/Fremont/#!/Fremont18/Fremont18183.html#18.183.110>

City of Los Angeles

- Los Angeles Municipal Code (Chapter 22.126) requires that trees be planted (or maintained) in order to provide 50% shade coverage of uncovered parking area within 15 years of planting for new buildings, major additions, and surface parking lots. Specifies requirements for tree size at time of planting, maintenance, and planting location. Does not apply to development single-family residences on compact lots.
https://library.municode.com/ca/los_angeles_county/codes/code_of_ordinances?nodeId=TIT22PLZO_DIV6DEST_CH22.126TRPLRE

San Diego County

- San Diego County Code of Regulatory Ordinances (Title 8, Division 6, Chapter 7) requires each new single-family residential project to include two trees per dwelling unit to increase carbon sequestration. Includes requirements for low water-use irrigation, use of mulch, and species selection to avoid root intrusion into concrete and structures.
https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/LandscapeOrdinance/Water-Conservation-In-Landscaping-Ordinance_06.24.20.pdf

View Ordinance

A mechanism to protect a property's view from trees and other obstructions.

Alameda County

- Alameda County Municipal Code (Chapter 6.66 - Views And Sunlight—Fairview District) establishes a process for property owners to restore views or sunlight obstructed by growth of trees on neighboring properties. Applies to Fairview only.
https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT6HESA_CH6.66VISUAIDI

City of Torrance

- City of Torrance Municipal Code (Article 41 – View Equity) establishes a process to restore or preserve views obstructed by neighboring vegetation, including criteria for determining “unreasonable obstruction” and a process for resolving obstruction disputes. Applies to Hillside Overlay Zoning District only.
<https://www.codepublishing.com/CA/Torrance/#!/Torrance09/Torrance0902.html#92.41>

City of Laguna Beach

- Laguna Beach Municipal Code (Chapter 12.16.050 - View Restoration Ordinance) allows property owners to restore an established pre-existing view, may require a public hearing before the View Restoration Committee
- LBMC (Chapter 12.16.040 – View Preservation Ordinance) allows property owners to document their view by filing for a Record of View to set a benchmark if the view later becomes obstructed by vegetation
<https://www.lagunabeachcity.net/government/departments/community-development/views-and-trees/view-restoration-preservation>

Hazardous/Nuisance Tree Ordinance

A mechanism for governing maintenance or removal of private trees that pose a hazard or nuisance to the public and/or neighboring property.

City of Oakland

- Hazardous Tree Ordinance outlines a pathway for submitting and reviewing claims regarding trees that pose a hazard to life or property. Removal may be considered as a last resort when all other corrective actions such as pruning, bracing, crown reduction, etc. have been considered/taken.

https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT12STSIPUPL_CH12.36PRTR

City of Pacific Grove

- High-Risk Trees And Nuisance Trees Ordinance provides a definition for Nuisance Trees and identifies the property owner as the party responsible for abating the nuisance. If owner does not take action, city arborist can provide notice of work required. If owner does not respond within a defined timeframe, City can perform required work and bill property owner or put a lien on property to recover cost of work.

<https://www.codepublishing.com/CA/PacificGrove/html/PacificGrove12/PacificGrove1240.html>

Urban Greening Master Plan Examples

City of Richmond Urban Greening Master Plan (2017):

- Includes: tree inventory, potential planting sites, analysis of 13 zones throughout the city, quantifiable benefits
- Goals: protect, expand, manage, support, fund the urban forest and educate and promote stewardship
- <https://www.ci.richmond.ca.us/DocumentCenter/View/42026/Richmond-Urban-Greening-Master-Plan-April-2017?bidId=>

City of Oakland Urban Forest Plan (2024 draft):

- Includes: tree inventory, tree canopy equity analysis, addresses management needs and challenges
- Goals: invest in the health of the urban forest, ensure that the benefits of trees are distributed equitably, and engage the community
- <https://oakland.konveio.com/draft-ufp>

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DISCUSSION

What types of private property tree protections or management mechanisms do you think the County should consider pursuing?

Staff will communicate your feedback to the Board Unincorporated Services Committee and Board Transportation and Planning Committee